

IMPORTANT UPDATE

This insert replaces the following information in the Civil procedures manual (dated 11/23/09) regarding sealed documents:

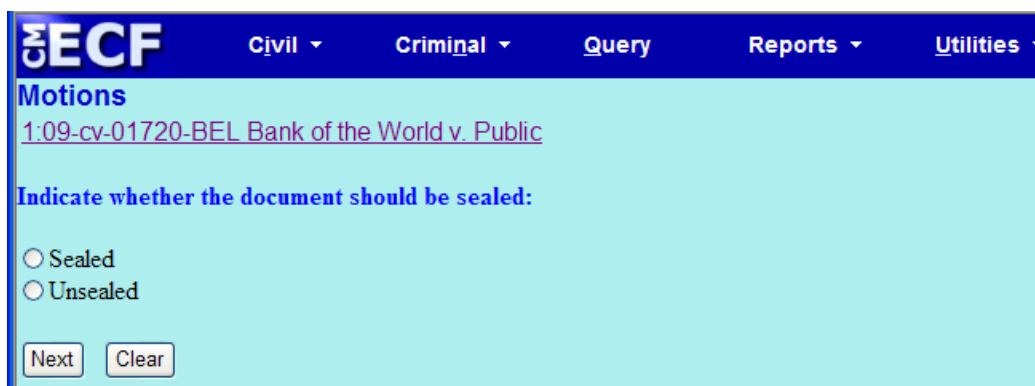
- pages 12-14 – section A7 – “Should Documents be Sealed?”
- pages 23-26 – section C1 – “Sealed Documents”
- page 52 – section IV. A – “Information to be Redacted”

Sealed Documents

One of the new features in version 4.0 of CM/ECF is the capability to file sealed civil documents in unsealed cases. While docketing an event, you will be prompted to indicate whether the documents you attach should be sealed or unsealed.

However, **unless there is already a Protective Order or an Order to Seal which allows this specific document to be sealed, you will also need to file a Motion to Seal this document.**

It is important to understand this change applies only to sealed **documents**; sealed **cases** must continue to be filed in paper format and accompanied by a PDF version on a CD, along with a cover letter.

The screenshot shows the CM/ECF web interface. At the top is a blue navigation bar with the 'ECF' logo and tabs for 'Civil', 'Criminal', 'Query', 'Reports', and 'Utilities'. Below this, the 'Motions' section is highlighted. The main content area has a light blue background and displays the case name '1:09-cv-01720-BEL Bank of the World v. Public'. A prompt 'Indicate whether the document should be sealed:' is followed by two radio buttons: 'Sealed' and 'Unsealed'. At the bottom of this section are two buttons: 'Next' and 'Clear'.

Because your filing may include more than one document, one of the following situations will apply:

- No document needs to be sealed
- All documents should be sealed
- Some documents should be sealed; some documents should be unsealed

If no document needs to be sealed, click the Unsealed radio button, and then click Next.

If one or more documents should be sealed, follow the instructions below.

a) Prepare Document(s)

Prepare your sealed document. In the caption, on the right side, either directly above or below the case number, one of the following should appear in all capital letters and in bold: “**SEALED**” or “**FILED UNDER SEAL.**” If the document is an exhibit which does not bear the case caption, one of these phrases should appear prominently on the upper right side of the document.

While it is acceptable to put red seals on documents, keep in mind seals can mean things other than the fact that a document is being filed under seal. Therefore, a seal in and of itself is not sufficient to flag a document as sealed.

If you would like to seal all the documents for this filing, follow the instructions under *b) All Documents should be Sealed*. Otherwise, if you would like some documents to be sealed and some to be unsealed, follow the instructions under *c) Main Document should be Unsealed; One or More Attachments should be Sealed*.

Similar to a sealed document, if you are filing a redacted document and an unredacted version of a document, prepare both documents. In the caption of the redacted version, on the right side, either directly above or below the case number, one of the following should appear in all capital letters and in bold: “**REDACTED**” or **REDACTED VERSION**”.

b) All Documents should be Sealed

Select the same event you would use if the document(s) did not need to be sealed. However, when prompted to indicate whether the document should be sealed or unsealed, click the Sealed radio button, then click Next. **Unless there is already a Protective Order or an Order to Seal which allows this specific document to be sealed, you will be required to file a Motion to Seal this document.** The Motion to Seal must be filed *immediately* after filing the sealed document.

The document(s) will be temporarily placed under seal until a ruling is made on the request to seal.

Example – you are filing a response in opposition to a motion. Select the event Response in Opposition to Motion. If you want to seal the response and attachments (if any), select “Sealed” when prompted. Whenever “Sealed” is selected, the screen below will then be displayed.

c) *Main Document should be Unsealed; One or More Attachments should be Sealed*

In this example, let's assume you are filing a reply to a response to a motion. You have decided the reply does not need to be sealed, but Exhibit A should be sealed. **Your filing will occur in two parts.**

First:

- 1) File the unsealed document (the main document) by selecting the same event you would use if none of the documents needed to be sealed.
- 2) In place of the sealed document (i.e., Exhibit A), complete the "Notice of Filing of Document Under Seal" (a sample of this document is located in Appendix B) as a placeholder for the sealed document(s). Attach it as an attachment to the main document.
- 3) When prompted to indicate whether the document should be sealed or unsealed, click the Unsealed radio button, then click Next.

Example – select the event Reply to Response to Motion. Attach the reply. Instead of attaching the sealed exhibit, complete and attach the "Notice of Filing of Document Under Seal". When prompted, click the "Unsealed" radio button.

Second:

- 1) After filing the unsealed document(s) and the placeholder(s) as explained above, file the sealed document(s) by using the event Notice of Filing Exhibit or Attachment Under Seal. (Click Civil on the blue menu bar, then click Notices, then select Notice of Filing Exhibit or Attachment Under Seal).
- 2) Attach the sealed document(s). The document will be automatically sealed. Electronic access to sealed documents is limited to specific court users that have sealed access.
- 3) **Unless there is already a Protective Order or an Order to Seal which allows this specific document to be sealed, you must also file a Motion to Seal this specific document.** The Motion to Seal must be filed *immediately* after filing the sealed document.

Example – select the event Notice of Filing Exhibit or Attachment Under Seal. Attach Exhibit A (your sealed document). The document will be automatically sealed, so you will not be prompted to select "Sealed" or "Unsealed".

d) Procedures Applicable to All Sealed Documents

At the same time, or immediately after filing the sealed document, you must serve a copy of the sealed document on any party required to be served by the Federal Rules of Civil Procedure. Service may be made in paper format or in any other format/means agreed to by the parties. Your filing with the court must include a Certificate of Service reflecting service by other means.

Any document you are filing under seal must be accompanied by a courtesy copy for chambers. Documents filed under seal will not be served through CM/ECF because parties do not have access to sealed documents.

e) Redacted Documents

If a document is to be redacted, (for example, a memorandum which contains personal identifiers in only one section):

- 1) File the redacted version of the document using the event, “Redacted Document”.
- 2) File the unredacted version using the event, “Unredacted Document”. This document WILL NOT be sealed, but only case participants will have access to it.

Information to be Redacted

REMINDER:
Private information
must be redacted from
all documents not
submitted under seal.

In accordance with the policy of the Judicial Conference of the United States, unless otherwise ordered by the court, the parties shall refrain from including or shall redact the following information from all documents not submitted under seal:

- Full Social Security numbers. If an individual’s Social Security number must be included in a document, only the last four digits of the number should be used.
- Taxpayer identification numbers. If an individual’s taxpayer identification number must be included in a document, only the last four digits of the number should be used.
- Names of minor children. If a minor child must be mentioned, only the initials of the child should be used.
- Full dates of birth unless essential to a claim or defense. It is acceptable to disclose an age or year of birth if relevant.
- Full financial account numbers. If financial account numbers are relevant, only the last four digits of the number should be used.